

Indonesia's Efforts in The International Maritime Organization and United Nations General Assembly to Facilitate Crew Changes During The Covid-19 Pandemic: An Overview of the IMO and UN GA Resolution's Effectiveness

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I. INTRODUCTION

Because the shipping sector transports more than 80% of global trade, seafarers, as the industry's major actors, play an important role in delivering numerous essential goods around the world, keeping the supply chain and global trade afloat. The natural, technical, and social risks associated with maritime employment demonstrate the necessity for providing specific protections for seafarers. The so-called human factor, which continues to be a prominent cause maritime accidents, significantly increases the inherent risks. The necessity to avoid fatigue and overwork requires the establishment of standards for manning, working hours, as well as rest and general health of seafarers.

During this COVID-19 pandemic, seafarers are often forced to face the challenges of risking their health, while demonstrating their professionalism and dedication. On the other side, other challenges such as border closures, lockdowns, and preventive measures have been imposed by states around the world to reduce the risk of exposure to COVID-19, leading to difficult working conditions for seafarers, such as the uncertainties and difficulties in port access, exchange of crews, and repatriation.

IMO Secretary General Kitack Lim, in one of his statements for the Commemoration of the Day of the Seafarer in 2020, highlighted seafarers' contribution during this pandemic. He called for the Member States to recognize seafarers as essential workers and to provide them with support, assistance, and travel options during the pandemic.¹

¹ "Webinar 'Seafarers Are Key Workers: Essential to Shipping, Essential to the World,'" International Maritime Organization, accessed May 25, 2021, <https://www.imo.org/en/MediaCentre/SecretaryGeneral/Pages/DOIS-webinar.aspx> .

A similar notion is shared by Indonesia, which is one of the largest seafarers' suppliers, contributing more than 150,000 Indonesian nationals working on vessels in seas all over the world. With that in mind, the Indonesian government has been actively supporting international efforts to facilitate crew exchange, port access, and repatriation since the outbreak's inception and continues to do so. Until today, Indonesia has been vocal specifically about crew changes.

During the pandemic period in 2020, many Indonesian seafarers became trapped on their ships, unable to disembark because many countries have closed their borders, tightened their immigration requirements, and barred port access. These ships were looking for a port of call and one of the options was London. The Embassy of the Republic of Indonesia successfully returned hundreds of Indonesian seafarers after extensive negotiations with ship management companies, International Transport Federation (ITF), IMO Seafarers Centre, and other authorities in the United Kingdom to ensure the repatriation process and the protection of the seafarers' rights.²

Aside from the pandemic crisis, some crews have beyond the expiration of their contracts, and have been onboard for more than a year without an appropriate contract, as well as concern over late payment of wages.

According to Indonesian authorities, one of the most pressing challenges is crew change, because the Maritime Labour Convention (MLC) requires seafarers' tours of duty to be no more than 12 months, and there are hundreds of thousands of seafarers who are still on board past this period. This may increase the likelihood of exhaustion and mental health concerns, potentially leading to serious maritime accidents caused by human error. As a result, if the typical rotation for crew change is disrupted, it may hinder the global supply chain, hurting global trade.

Crew changes are essential to prevent fatigue and protect the health, safety, and well-being of seafarers and to ensure the safe operation of maritime trade. Crew changes cannot be postponed indefinitely. In addition to the practical concerns, crew changes are required to comply with the International Labour Organization's 2006 Maritime Labour Convention, which states that the maximum continuous period that a seafarer can serve on board a vessel without leave is 11 months.³

Regulation 2.5 of the MLC states that at the end of their contracts, seafarers have the right to be repatriated. As a result, flag states bear responsibility for seafarers' repatriation, and port states bear responsibility for facilitating such repatriation as well as seafarer replacement.

² "KBRI London Pulangkan 206 WNI ABK Cruise and Maritime Voyage, access on 28 May 2021 "<https://kumparan.com/kumparannews/kbri-london-pulangkan-206-wni-abk-cruise-and-maritime-voyage-1tjamqnkXLF/full>"

³ "COVID-19 and Maritime Crew Changes: A Humanitarian, Safety, and Economic Crisis World Maritime Day - 24 September 2020 Event on the Margins of the UN General Assembly High Level Week." International Maritime Organization, accessed May 25, 2021. <https://www.imo.org/en/MediaCentre/SecretaryGeneral/Pages/Crew-changes-UNGA-event.aspx..>

The principles of avoiding unnecessary restrictions or delays on the port of entry to ships, persons, and property on board can be found in article I and article V, as well as section 6 of the Convention on Facilitation of International Maritime Traffic, 1965 as Amended (FAL Convention).⁴ Other IMO conventions that may be relevant to the impact on shipping caused by the outbreak of COVID-19, in addition to the FAL Convention, include, but are not limited to:

1. The International Convention for the Safety of Life at Sea, 1974
2. The International Convention for the Prevention of Pollution from Ships, 1973
3. The International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004
4. The International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978
5. Resolution A.1119(30), *Procedures for Port State Control*, 2017.

This paper will demonstrate how Indonesia's active participation in the International Maritime Organization and United Nations has paved the way for the adoption of two resolutions for seafarers' crew exchange for their health and safety during the COVID-19 pandemic, which are based on Indonesia and other like-minded governments.

II. THE INTERNATIONAL MARITIME ORGANIZATION (IMO) MARITIME SAFETY COMMITTEE RESOLUTION

Indonesia plays a crucial role in facilitating international efforts to address crew changes and achieve the designation of seafarers as key workers. International organisations, namely the International Maritime Organization and the United Nations General Assembly, have recognised Indonesia's active role, with these two distinguished international organisations adopting resolutions to ensure the international exchange of crews.

As an effort to deal with the COVID-19 pandemic in early 2020, the IMO published a Circular Letter on April 2020 containing a set of Protocols for the shipping industry to ensure safe ship crew changes and travel during the COVID-19 pandemic.⁵

⁴ *Convention on Facilitation of International Maritime Traffic, 1965, as Amended* (London: International Maritime Organization, 2018).

⁵ "Industry Recommended Framework of Protocols for Ensuring Safe Ship Crew Changes and Travel During the Coronavirus (COVID-19) Pandemic", IMO Circular No. MSC.1/Circ.1636/Rev.1 dated 22 April 2021. Accessed May 26, 2021. <https://wwwcdn.imo.org/localresources/en/MediaCentre/HotTopics/Documents/MS%201636%20protocols/MS%201636%20-%20Industry%20Recommended%20Framework%20Of%20Protocols%20For%20Ensuring%20Safe%20Ship%20Crew%20Changes%20And%20Travel.pdf>

These protocols set out general measures and procedures for seafarers addressing safe crew changes during the COVID-19 pandemic, covering the utilization of personal protective equipment, COVID-19 testing, temperature checking, and proposal for a designated lane at airports. In addition, one of the critical points in the protocols is that the key worker designation should ensure that seafarers and maritime workers receive priority vaccination, allowing them to work and maintain the vital global supply chain.

In May 2020, during the informal meeting of the IMO Maritime Safety Committee (MSC) 32nd Extraordinary Session, Indonesia supported a proposal for the facilitation of shipping during the COVID-19 pandemic, which appreciated the efforts of IMO in dealing with the impact of the pandemic on seafarers through the establishment of the Seafarer Crisis Action Team (SCAT). The SCAT aims to serve as a coordination platform for all maritime-related stakeholders in addressing issues such as crew welfare, facilitation of crew changes, guidance on the use of Personal Protective Equipment (PPE) and abandonment of seafarers.

Indonesia, along with Denmark, France, Germany, Greece, Netherlands, Norway, Philippines, Saudi Arabia, Singapore, United Arab Emirates, United Kingdom and United States, signed *The Joint statement on the maritime virtual summit on crew changes* in an International Maritime Virtual Summit hosted by the United Kingdom. Through this effort, Indonesia has recognized seafarers as key workers, accepting seafarers' ID documents as proof of their key worker status, implementing the industry-approved protocols for ensuring safe ship crew changeovers, reviewing national quarantine restrictions, and increasing access to commercial flights to and from principal ports of call.

Indonesia's active role in the discussion on the facilitation of shipping continued until in September 2020, the IMO Maritime Safety Committee (MSC), during its extraordinary session, adopted a resolution on recommended action to facilitate ship crew changes, access to medical care, and seafarer travel during the COVID-19 pandemic, urging specific action to address the issue, including designating seafarers as key workers with access to the necessary, safe travel arrangements.⁶

The IMO Resolution managed to address the main issues facing the shipping industry, including crew changes and repatriation of seafarers during the COVID-19 pandemic. In addition, the Resolution also recognizes the pivotal role of seafarers in maintaining the continuity of the supply chain of vital equipment and goods.

The Resolution further urges governments and relevant national authorities to discuss and consider implementing the Recommended Framework of Protocols for

⁶ "IMO Resolution Calls for Government Action on Crew Change Crisis," International Maritime Organization, accessed May 22, 2021, <https://www.imo.org/en/MediaCentre/PressBriefings/pages/29-MSC-Ex-Session-seafarer-resolution.aspx>.

Ensuring Safe Ship Crew Changes and Travel during the Coronavirus (COVID-19) pandemic.⁷ This Protocol is crucial because it recommends that maritime administrator work with their governments to address the global rollout of vaccines, as well as to facilitate ship crew changes and the efficient movement of global trade. It is recommended that the company and the shipowner demonstrate compliance with any measures that may be applicable to them. Meanwhile, Governments and national authorities should be encouraged to do everything possible to facilitate ship crew changes, regardless of any restrictions imposed in response to the pandemic.

A point to be underlined in the Resolution is the call for States to designate seafarers as 'key workers' who provide an essential service and facilitate safe and unhindered movement for embarking or disembarking a vessel, as well as addressing the legal document carried by the seafarers as the proof of their 'key worker' status, to ease their travel for crew changes. The participating states are requested to consider implementing temporary measures to allow, under the relevant laws, the waiver, exemption, or other relaxation of any visa or documentary requirements that generally apply to seafarers.

For preventative measures, the Resolution urges several actions, such as testing on the crewmembers before embarkation to reduce the risk of on-board infections and facilitate safe and quick crew changes. These states are also required to provide immediate access to medical care, facilities, and evacuation in emergency situations. The Resolution also invited the Member States to designate a National Focal Point on Crew Change and Repatriation of Seafarers to coordinate action at the national level.⁸

Upon further analysis, the Resolution further recommends that all member states take action to implement crew changes for seafarers in accordance with their national laws.

III. THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION

To advance the effort to reach a global understanding on the issue of crew changes that could disrupt the global supply chain, the IMO and some of its member states, along with Indonesia as one of the 71 co-sponsoring countries, proposed a draft resolution to the United Nations General Assembly. The first aspect that should

⁷ "Industry Recommended Framework of Protocols for Ensuring Safe Ship Crew Changes and Travel During the Coronavirus (COVID-19) Pandemic", International Maritime Organization, accessed May 25, 2021, <https://wwwcdn.imo.org/localresources/en/MediaCentre/HotTopics/Documents/MSC%201636%20protocols/MSC.1-Circ.1636%20-%20Industry%20Recommended%20Framework%20Of%20Protocols%20For%20Ensuring%20Safe%20Ship%20Crew%20Changes%20And%20Travel.pdf>

⁸ "IMO Resolution Calls for Government Action on Crew Change Crisis," International Maritime Organization, accessed May 22, 2021, <https://www.imo.org/en/MediaCentre/PressBriefings/pages/29-MSC-Ex-Session-seafarer-resolution.aspx>.

be addressed is the humanitarian aspect of crew change. However, this approach sparked more debate on ways to ensure continuity of the global supply chain.

As is generally known, the UN General Assembly has the authority to make recommendations to states on international issues within its areas of competence. The UNGA resolution would strengthen the technical resolution issued by the IMO that provides recommendations to governments and their officials.

The IMO Secretary General issued a statement on “COVID-19 and Maritime Crew Changes: A humanitarian, safety and economic crisis” in the United Nations General Assembly High Level Week on 24 September 2020, which called for cooperation and commitment from all Member States to recognize seafarers as key workers, exempting them from travel restrictions, and implement the recommended framework of protocols for safe crew changes to get seafarers onto and off vessels.⁹ Afterward, through its Permanent Representatives in New York, the Government of Indonesia introduced a draft resolution under the agenda item on the strengthening of the UN system. The draft resolution was co-sponsored by Indonesia and 70 other countries.

The Permanent Representative of the Republic of Indonesia for United Nations, Dian Triansjah Djani, explained that the shipping industry remains the backbone of the international economy, transporting more than 80 percent of global trade and delivering vital medical supplies, food and other basic goods essential for the COVID-19 response and recovery. Behind this sector, there are two million seafarers whose work and commitment have largely gone unnoticed and who face significant challenges due to pandemic.¹⁰

As a leading global supplier of the maritime labour force, Indonesia has served as the facilitator for negotiating the draft resolution supported by other 70 countries along with UNCTAD, ILO, and IMO. On 1 December 2020, the UN General Assembly unanimously adopted a resolution on “International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains”.¹¹ This was the first General Assembly resolution of its kind concerning seafarers and global supply chain.

The resolution called for governments to take steps to facilitate maritime crew changes, expediting travel and repatriation efforts, and ensuring access to medical

⁹ “COVID-19 and Maritime Crew Changes: A Humanitarian, Safety, and Economic Crisis World Maritime Day - 24 September 2020 Event on the Margins of the UN General Assembly High Level Week.” International Maritime Organization. Accessed May 25, 2021. <https://www.imo.org/en/MediaCentre/SecretaryGeneral/Pages/Crew-changes-UNGA-event.aspx>.

¹⁰ “General Assembly Adopts Three Resolutions, One Designating World’s Seafarers, Other Maritime Personnel as Key Workers in Context of COVID-19 Pandemic | Meetings Coverage and Press Releases,” United Nations (United Nations), accessed May 26, 2021, <https://www.un.org/press/en/2020/ga12291.doc.htm>.

¹¹ “Resolution on International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains”, United Nations General Assembly, accessed on 24 May 2021, <https://undocs.org/en/A/RES/75/17>.

care. It also requests governments and relevant stakeholders to provide the necessary attention and concrete action to ensure the well-being of seafarers.

Following these steps, around 600 companies and organizations from across the global maritime value chain signed the Neptune Declaration on Seafarer Wellbeing and Crew Change in Davos at the end of January 2021. In this Declaration, the participating companies and organizations recognized that they had a shared responsibility to ensure that the current crew change crisis should be resolved as soon as possible, and one of the references included in the Declaration is the UN Resolution (A/RES/75/17). As a result, they should collaborate across the value chain with industry stakeholders, organizations, and governments to implement solutions benefitting everyone.¹²

While the Neptune Declaration is not a legally binding instrument because it was created by companies and does not bind its signatories, it is referenced in UNGA Resolution A/RES/75/17. It is demonstrated that the UNGA Resolution is more of a statement of commitment by the stakeholders from all stages of the maritime value chain. However, these stakeholders are the key players who can bring the IMO Resolution and UNGA Resolution to realisation.

One of the main points from all the aforementioned resolutions is the designation granting seafarers key worker status because it exempts them from specific COVID-related travel restriction, allowing them to travel between their country of residence and ships and to be repatriated at the end of their contracts. Crew changes are essentials to ensure the continuity of the global supply chain because shipping carries more than 80% of the global trade by volume. The key worker designation will ensure that the trade of essential goods, including medical supplies and food, is not hampered by the pandemic and the associated containment measures.¹³

According to the IMO, if seafarers are categorized as key workers, then they should ensure that the seafarers can be rapidly vaccinated since it would fall under the category of essential workers outside the health sector and fit into the category of economically critical sectors and could not carry out their job remotely.

As a result of the above efforts, as of April 2021, 58 IMO member states and two Associate Members have designated seafarers as key workers. However, the situation remains complicated, and difficulties have been reported. In some cases, the key worker designation only applies to nationals of specific countries, with

¹² Anita Premti and Regina Asariotis, "Facilitating Crew Changes and Repatriation of Seafarers during the COVID-19 Pandemic and Beyond," UNCTAD, assessed on May 25, 2021, <https://unctad.org/news/facilitating-crew-changes-and-repatriation-seafarers-during-covid-19-pandemic-and-beyond>.

¹³ "COVID-19 and Maritime Crew Changes: A Humanitarian, Safety, and Economic Crisis World Maritime Day - 24 September 2020 Event on the Margins of the UN General Assembly High Level Week." International Maritime Organization, accessed May 25, 2021. <https://www.imo.org/en/MediaCentre/SecretaryGeneral/Pages/Crew-changes-UNGA-event.aspx>.

restrictions still in place for seafarers from other countries, preventing foreign crew from transiting through some countries as part of repatriation.

IV. THE INDONESIAN GOVERNMENT'S EFFORTS TO FACILITATE CREW CHANGES DURING THE COVID-19 PANDEMIC

The Indonesian government took an important step by designating seafarers as key workers during the COVID-19 pandemic through publication of the Circular Letter of the Director General of Sea Transport No. SE 43 Year 2020 on the Guidance on the Change and Repatriation of Seafarers as well as port services during the COVID-19 Pandemic.

Domestically, the Indonesian government has made several efforts to address the exchange of crew situation, including the publication of guidelines for crew exchange, repatriation, and port services during the COVID-19 pandemic, as well as guidelines for COVID-19 contingency planning for seafarers, ship owners/operators, and maritime education and training institutes.

These guidelines provide information on the mechanism for seafarers to conduct crew exchanges in Indonesian ports, as well as the ease with which seafarers can extend their certificates during extended periods at sea.

The Indonesian Ministry of Transportation of Indonesia has designated 11 ports in Indonesia for crew exchanges for non-Indonesian crew or Indonesian crew in foreign vessels. The process of crew exchanges must adhere to the COVID-19 health protocol and receive approval from local authorities in accordance with applicable rules.¹⁴ In addition, other obligations must be met prior to conducting crew changes, such as providing the negative result of the RT-PCR Tests and conducting quarantine before signing on from an Indonesian port (for non-Indonesian crew) or conducting five-day quarantines for sign off for crew after conducting a RT-PCR Test.¹⁵

These measures demonstrate the Indonesian government's dedication to protecting seafarers, not only Indonesian seafarers, but all seafarers worldwide.

¹⁴ Surat Edaran No. SE 43 Tahun 2020 tentang Petunjuk Pelaksanaan Pergantian dan Pemulangan Awak Kapal serta Pelayanan Jasa Kepelabuhan selama Pandemi Corona Virus Disease 2019 (COVID-19), assessed on 31 May 2021, <https://ebu.co.id/wp-content/uploads/2021/01/2020-11-06-SURAT-EDARAN-DIRJEN-HUBLA-NOMOR-SE-43-TAHUN-2020.pdf>

¹⁵ Surat Edaran No. SE 22 Tahun 2021 tentang Perpanjangan Pemberlakuan Petunjuk Pelaksanaan Perjalanan Orang dari Luar Negeri dengan Transportasi Laut pada Masa Pandemi *Corona Virus Disease 2019* (COVID-19), assessed on 31 May 2021, <https://kopolnas.go.id/assets/file/produkhukum/049d804e8120ebb1b07d3c3b31f1626d.pdf>

V. CONCLUSION

Even though Indonesian efforts successfully brought the world's attention and cooperation to the continuity of the global supply chain by proposing two significant resolutions, one in the IMO and one in the United Nations, the problem persists. According to IMO data, more than 200,000 seafarers are still stranded on-board commercial vessels, unable to be repatriated because their contracts have expired. Meanwhile, a similar number of seafarers are desperately needed to join ships to replace them.

To ensure the safety of seafarers, Indonesia should continue to encourage the public and private sectors to exchange views and best practices for the implementation of IMO and UNGA resolutions, as well as promote international discussions on the possibility of developing a more specific international standard dealing with crew changes in the midst of a pandemic.

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